

The Honorable John H. Chun

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMAZON.COM, INC., *et al.*,

Defendants.

No. 2:23-cv-0932-JHC

**PLAINTIFF’S RESPONSE TO  
DEFENDANT AMAZON’S  
OBJECTION TO FTC’S  
[PROPOSED] ORDER FINDING  
AMAZON.COM WITHHELD  
MATERIAL IN BAD FAITH**

In response to Defendant Amazon’s Objection (Dkt. #401) to the FTC’s [Proposed] Order Finding Amazon.com Withheld Material in Bad Faith (Dkt. #399; the “Proposed Order”), the FTC states as follows:

1. The Proposed Order is not an improper reconsideration request. Rather, the Court, at oral argument, “direct[ed]” the FTC “to submit an order with the language that you’re seeking” regarding bad faith. July 2, 2025 Hearing Tr. at 17:15-20. Additionally, although the FTC did not include a specific proposed finding of bad faith in its prior Proposed Order (Dkt. #286-1)—instead, as is typical of proposed orders, listing only the relief sought—the FTC’s

1 Motion made clear bad faith was the basis for the proposed relief and provided supporting  
 2 evidence. Dkt. #286 at 12-15. Then, in Reply, the FTC explained Amazon had no plausible  
 3 alternative explanation for its conduct other than bad faith. Dkt. #334 at 2-6.

4 2. The FTC's original Proposed Order *did* seek to bar Amazon from using any of the  
 5 wrongfully withheld materials. Therefore, Amazon's statement at the oral argument that the  
 6 FTC already has received all of the relief it sought was false, and the FTC's Proposed Order  
 7 merely addresses this issue that arose at the hearing. July 2, 2025 Hearing Tr. at 18:21-19:14  
 8 (Amazon stating it agreed to "all of the relief that the FTC was seeking" and "everything that  
 9 [the FTC] asked for"), 28:20-29:23 (Court questioning FTC regarding this point).

10 3. The Court's Sanctions Order (Dkt. #371) is not an *in limine* evidentiary ruling,  
 11 and the Court, in any event, retains the authority to modify any order it enters (including the  
 12 Proposed Order), provided Amazon meets its burden of showing why modification is warranted.

13  
 14 Dated: July 9, 2025

/s/ Evan Mendelson

15 JONATHAN COHEN (DC Bar # 483454)  
 16 EVAN MENDELSON (DC Bar #996765)  
 OLIVIA JERJIAN (DC Bar #1034299)  
 JONATHAN WARE (DC Bar #989414)  
 17 ANTHONY SAUNDERS (NJ Bar #008032001)  
 SANA CHAUDHRY (NY Bar #5284807)

18 Federal Trade Commission  
 19 600 Pennsylvania Avenue NW  
 Washington DC 20580

20 (202) 326-2551 (Cohen); -3320 (Mendelson); -2726  
 21 (Ware); 2749 (Jerjian); -2917 (Saunders); -2679  
 (Chaudhry)

22 JCohen2@ftc.gov; EMendelson@ftc.gov;  
 23 JWare1@ftc.gov; OJerjian@ftc.gov;  
 ASaunders@ftc.gov; SChaudhry@ftc.gov

COLIN D. A. MACDONALD (WSBA # 55243)  
Federal Trade Commission  
915 Second Ave., Suite 2896  
Seattle, WA 98174  
(206) 220-4474; CMacdonald@ftc.gov

RACHEL F. SIFUENTES  
(IL Bar #6304016; CA Bar #324403)  
Federal Trade Commission  
230 S. Dearborn St., Room 3030  
Chicago, IL 60604  
(312) 960-5617; RSifuentes@ftc.gov

JEFFREY TANG (CA Bar #308007)  
Federal Trade Commission  
10990 Wilshire Boulevard, Suite 400  
Los Angeles, CA 90024  
(310) 824-4303; JTang@ftc.gov

Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION